

Nebraska Supreme Court:

DNR Must Reconsider Farmers' Claims

BY MARGERY A. BECK
Associated Press

OMAHA, Neb. — The Nebraska Department of Natural Resources must consider farmers and ranchers' claim that a public power district lost its rights to Niobrara River water by failing to exercise them for decades, the state Supreme Court ruled Friday.

The decision was another victory for the farmers, who sued when the department ordered them to shut off their irrigation pumps in 2007 because the Nebraska Public Power District wanted to exercise its senior water rights.

The district said it wanted the water to produce power at the 80-year-old Spencer Dam, which it owns. The dispute arose after years of drought reduced the region's water supply.

Nebraska law says that when it comes to water, "the one first in time is first in right." But the law also sets up a priority system, and irrigators take higher priority than the power

company. So even though the farmers received their rights after NPPD, they can use the water first if they want it, but they have to pay the power company.

Upset at having to pay for water, the farmers and ranchers cited a 50-year-old Nebraska Supreme Court ruling in arguing that the power district gave up the water rights it acquired in the 1940s by not exercising them before 2007 and failing to object to any of the applications of other water users over the decades.

The power district disagreed, saying it has used water yearly to churn turbines at the hydroelectric dam.

In 2009, the state Supreme Court found that state water officials were wrong in dismissing irrigators' challenge to NPPD's water rights claim without a hearing. The department subsequently held a hearing, but refused to hear, among the irrigators' litany of arguments, the claim that NPPD had forfeited its senior rights to the river's water because it had not exer-

cised them for about 50 years.

In its opinion Friday, the state's high court found that the department should have considered that argument and ordered the Natural Resources Department to go back and do so.

Donald Blankenau, a Lincoln attorney for some of the farmers and ranchers, said they have tens of thousands of dollars at stake in the decision.

He said the farmers had to have water for irrigation, so they made a claim in Boyd County District Court. The court ordered them to pay NPPD more than \$47,000 to secure their water rights for the next 20 years. If the DNR rules in their favor and cancels the utility's water rights, they will get a refund, he said.

The Nebraska Attorney General's office, which handled the appeal for the state, referred questions to the Department of Natural Resources. Director Brian Dunnigan did not immediately return messages left Friday by The Associated Press seeking comment.

Neb. Gov. Says He Will Sign Keystone XL Bill

LINCOLN, Neb. (AP) — Gov. Dave Heineman has confirmed he will sign a bill allowing Nebraska to restart its review of the proposed Keystone XL pipeline.

Heineman told reporters Friday that he wanted the oil pipeline project to move forward, as long as it avoids Nebraska's environmentally sensitive Sandhills.

The bill would authorize the state to continue its analysis of new possible routes. Officials stopped the review after President Barack Obama denied a federal permit for the project.

Heineman has long said he supported the pipeline, but opposed its original route through the groundwater-rich Sandhills.

He made the comment in Grand Island, while urging lawmakers to uphold his veto of a city sales tax bill. Heineman appeared alongside Grand Island Mayor Jay Vavricek, who opposes the sales tax measure.

Neb. Gov. Vetoes Grant Program For Schools

LINCOLN, Neb. (AP) — Nebraska Gov. Dave Heineman has vetoed a proposed grant program to create school-based health centers.

Heineman said in a letter to lawmakers that the measure improperly uses state lottery proceeds, which can only be spent for education purposes. He also says such school health facilities already exist at the community level, and should remain a local responsibility.

The bill would allocate \$200,000 a year for competitive school district grants to create the health clinics. It would sunset in June 2014.

The bill's sponsor, Omaha Sen. Jeremy Nordquist, says he will file a motion to override the governor's veto. Lawmakers plan to attempt veto overrides on three other bills on their final day of the session.

Jury Backs Millard Schools For Suspensions

OMAHA, Neb. (AP) — A federal jury has found that Millard Public Schools acted legally when it suspended students for wearing T-shirts and other items in memory of a student who was shot to death in June 2008.

Students began wearing the items for 18-year-old Julius Robinson designed by his friend, Dan Kuhr. The district claimed they were disruptive and gang-related and suspended 26 students.

Kuhr and his siblings, Nick and Cassie, sued. A federal judge ruled in 2011 they could take their case to a jury.

The jury ruled Friday in favor of the district and against Dan Kuhr and Nick Kuhr. No verdict was reached in Cassie Kuhr's claim.

The Kuhrs' attorney and the American Civil Liberties Union of Nebraska expressed disappointment. A message left for the district's attorney wasn't returned.

Forecasters Say Saturday Storms 'Life Threatening'

BY SEAN MURPHY
Associated Press

OKLAHOMA CITY — In an unusually early and strong warning, national weather forecasters cautioned Friday that conditions are ripe for violent tornadoes to rip through the nation from Texas to Minnesota this weekend.

As states across the middle of the country prepared for the worst, storms were already kicking off in Norman, Okla., where a twister whizzed by the nation's tornado forecasting headquarters but caused little damage.

It was only the second time in U.S. history that the Storm Prediction Center issued a high-risk warning more than 24 hours in advance, said Russ Schneider, director of the center, which is part of the National Weather Service. The first time was in April 2006, when nearly 100 tornadoes tore across the southeastern U.S., killing a dozen people and damaging more than 1,000 homes in Tennessee.

This weekend's outbreak could be a "high-end, life threatening event," the center said.

The strongly worded message came after the National Weather Service announced last month

that it would start using terms like "mass devastation," "unsurvivable" and "catastrophic" in warnings in an effort to get more people to take heed. It said it would test the new warnings in Kansas and Missouri before deciding whether to expand them to other parts of the country.

Friday's warning, despite the dire language, was not part of that effort but just the most accurate way to describe what was expected, a weather service spokeswoman said.

It's possible to issue earlier warnings because improvements in storm modeling and technology are letting forecasters predict storms earlier and with greater confidence, said Chris Vaccaro, a spokesman for the National Weather Service. In the past, people often have had only minutes of warning when a siren went off.

"We're quite sure tomorrow will be a very busy and dangerous day in terms of large swathes of central and southern plains," Vaccaro said. "The ingredients are coming together."

The worst weather is expected to develop late Saturday afternoon between Oklahoma City and Salina, Kan., but other areas also

could see severe storms with baseball-sized hail and winds of up to 70 mph, forecasters said. The warning issued Friday covers parts of Illinois, Iowa, Kansas, Missouri, Nebraska, Oklahoma and Texas.

The weather service confirmed a tornado touched down about 4 p.m. Friday near the University of Oklahoma campus in Norman, where it is based. Non-essential personnel at the storm center and students were ordered to take shelter, officials said.

Video from television helicopters showed several buildings damaged in the city of about 100,000 about 20 miles south of

Oklahoma City, but Oklahoma Department of Emergency Management spokeswoman Keli Cain said there were no reports of serious injuries.

"This is just a fraction of what's to come tomorrow," Vaccaro warned.

Storms were developing as cold air from the west hit low-level moisture coming up from the Gulf of Mexico. The difference in wind direction and speed was creating instability in the atmosphere that can spawn tornadoes, said Scott Curl, another weather service meteorologist.

Navy Says New Submarine Named In Honor Of S.D.

BY CHET BROKAW
Associated Press

PIERRE — When former submariner Tim Madden of Avon asked the South Dakota Legislature to request that one of the U.S. Navy's new submarines be named in honor of the state, he had no idea the effort would pay off so quickly.

Madden said he was surprised when Navy Secretary Ray Mabus announced Friday that one of the next five Virginia-class submarines to be built will be named the USS South Dakota. The other attack submarines will be named for Illinois, Washington, Colorado and Indiana.

"All right. That's great," Madden, 71, said when he heard the news.

Madden, who served on submarines in the 1960s, asked the Legislature to pass a resolution earlier this year requesting that one of the new subs be named for South Dakota. Madden's neighbor, Rep. Ed Van Gerpen of Avon, sponsored the resolution, which passed unanimously, and the state's congressional delegation followed up with a letter asking Mabus to name a new submarine the USS South Dakota.

The first ship named for South Dakota was an armored cruiser that served in World War I. The second was the USS South Dakota battleship that served in the Pa-

cific theater during World War II. It's important to South Dakota members of the United States Submarine Veterans Inc. that the next Navy vessel named in honor of the state be a submarine, Madden said.

"The USS South Dakota battleship that served during World War II had an especially storied history, winning 13 battle stars, and it's a fitting tribute that a U.S. Navy attack submarine will now carry that name around the globe," Gov. Dennis Daugaard said.

None of the five states to be honored with new submarines has had a vessel named for it in almost 50 years, Mabus said.

"Now these states will represent the latest and greatest technology ever assembled to submerge below the surface and project power forward," he said in a written statement.

The five submarines being built in Newport News, Va., will be able to launch cruise missiles, conduct long-term surveillance, fight other submarines and surface ships, and carry special forces, Mabus said. The 377-foot Virginia-class subs also have reactor plants that will not require refueling during the planned life of the vessels, he said.

Members of South Dakota's congressional delegation said they were pleased Mabus responded to their request.

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